



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

EXETER POLICE ASSOCIATION	:	
	:	
Complainant	:	
	:	
and	:	CASE NO. P-0718:1
	:	
TOWN OF EXETER	:	DECISION NO. 82-06
	:	
Respondent	:	
	:	

APPEARANCES

Representing the Complainant

James M. Ford

Representing the Respondent

Thomas Powers, Public Safety Director
David C. Engel, Esquire
Donald E. Chick, Town Manager

COMPLAINT

In a complaint filed with N.H. Public Employee Labor Relations Board on December 2, 1981, the Exeter Police Association charges that an unfair labor practice or (s) has been committed as follows:

On November 30, 1981, Safety Director Thomas Powers, representing the Town of Exeter in negotiations, refused to meet with Mr. James M. Ford, negotiator for the Exeter Police Association, violating RSA 273-A:5 (e).

Further that in this or other conduct the Town of Exeter has sought "to dominate or to interfere in the formation or administration of any employee organization; to refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon in negotiations RSA 273-A:5 (a) and (e)."

A hearing was held on January 21, 1982 at Board office in Concord.

BACKGROUND

Exeter Police Association and Safety Director Powers had several meetings beginning in August and extending to November 1981 under a "meet and confer" process, an amendment to their contract agreement (expired December 31, 1981) as per contract amendment. This "meet and confer" process was viewed by the Police Association as not productive to them and they proceeded to hire "Diversified Labor/Management Consultants" (Mr. James M. Ford) who notified the Town of Exeter

of his appointment as negotiator by letter dated November 24, 1981. At the previously scheduled meeting of November 30, 1981, Mr. Powers refused to negotiate with the Police Association representative, Mr. Ford.

FINDINGS OF FACT

During the meetings of August to November 1981, under the "meet and confer" process, the subjects under discussion were the same as under negotiations.

Town Manager Chick's memo of July 28, 1980 to Mr. James Gilmore, then President of the Exeter Police Association, contains the explanation of the concept from the Town's point of view and appears to emphasize "discussion" rather than negotiation per se but does specifically include subjects specified for negotiations under RSA 273-A and recognizes that it does.

During the course of the hearing it was established that through most, if not all, of the "meet and confer" process no written notice of intent to negotiate had been served by either party, yet barring this omission, testimony revealed that both sides were engaged in de facto negotiations, at least up to November 30th, 1981.

Testimony by Safety Director Powers indicated that he refused to negotiate with Mr. Ford on November 30, 1981 because he was uncertain as to his authority to do so. Town Manager Chick confirms that a discussion with Mr. Powers on this subject followed the fruitless November 30, 1981 meeting and in subsequent negotiations counsel was retained to negotiate for the Town.

DECISION AND ORDER

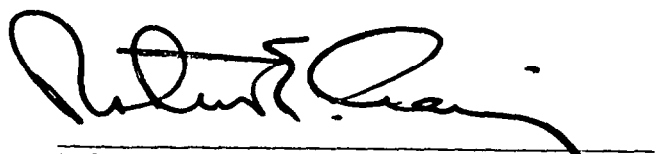
Testimony and exhibits at hearing did not reveal a pattern of "refusal to negotiate in good faith" on the part of the Town or its representatives, nor was any evidence developed to show an intent on the part of the Town to "dominate or interfere" with the Police Association's rights to bargain collectively, although the "meet and confer" process has resulted in some confusion over whether "negotiations" have proceeded.

The Board observes that the "meet and confer" process is more appropriate as a management tool to forestall grievances and misunderstandings arising under existing contracts as evidenced by Town Manager Chick's memo which stated:

"The "Meet and Confer" technique will be used with respect to any dispute over the terms of the existing contract, any mutually agreed upon amendments and extensions to that contract and conflicts which may arise regarding the administration of the Department."

than in negotiation for new contracts and is used most commonly in States that, unlike New Hampshire, do not have a statutory basis of bilateral negotiation.

The Board finds no evidence of an unfair labor practice on the part of the Town with respect to RSA 273-A:5 (e) or 273-A:5 (a) and thus dismisses the charge.



Robert E. Craig, Chairman
Public Employees Labor Relations Board

Signed this 16th day of February, 1982.

Chairman Robert E. Craig presiding. By unanimous vote of Members Anderson,^{**}
Hilliard and Osman. Also present, Evelyn C. LeBrun, Executive Director.

**2/25/82- Member Anderson, although present at the hearing, did not participate in the discussions and did not vote on the decision in this case.